



OIG Office of Inspector General
United States Department of State

ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Presented by:

Shawn McKee, P.E., PMP
OIG / AUD



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Course Learning Objective

The learning objective of this course
is to provide

OIG Team Members

an understanding of the complexities
associated with Government
Construction Contract Administration.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

MODULES

MODULE 1 – Construction Contract Administration - General Info.

MODULE 2 – Contract Documents and Files

MODULE 3 – Construction Quality Management

MODULE 4 – Schedule Management

MODULE 5 – Changed Conditions

MODULE 6 – Contractor Payment Requests



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

HELLO

My name is

Name:

Present Position:

Experience with Construction Contracts:

Goals for taking this training:



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Trivia

Question 1 – What is the most frequently used material in construction?

Answer 1 – Concrete

Question 2 – Is there a difference between concrete and cement?

Answer 2 – YES!

Question 3 – What are the main ingredients of concrete?

Answer 3 – Aggregate (sand and gravel), water, cement, and air.

Question 4 – When was concrete first made?

Answer 4 – It really depends on what we call 'concrete.' Earliest concrete like material developed in the Middle East around 6,500 B.C.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Trivia

Question 5 – What is the purpose of the cement and water in concrete?

Answer 5 – The cement and water combine to form a paste that binds to the aggregate to form a rock-like substance.



Question 6 – How much concrete is produced each year?

Answer 6 – About 4.4 billion tons worldwide.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

(Quick) Review from the Introduction & Intermediate Courses



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

REGULATIONS & POLICY

Federal Acquisition Regulations (FAR)

Code of Federal Regulations (CFR), Title 48, Chapter I, are the primary regulations used by all Federal agencies.

Department of State Acquisition Regulations (DOSAR)

Department of State FAR Supplement, Title 48, Chapter 6, of the CFR.

Foreign Affairs Manual (FAM) / Foreign Affairs Handbook (FAH) - 14 FAM / FAH 200 – Acquisitions

AQM Overseas Contracting & Simplified Acquisition Guidebook, January 2020

OBO Construction Management Guidebook, May 2016

Note – Above Regs & Policy Docs are uploaded on the T: Drive



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

CONTRACTING AUTHORITY

What is Contracting Authority?

Contracting Authority is the right given to specific Government employees to purchase goods and/or services on behalf of their agency.

Why is Contracting Authority Necessary?

When the Government acts as a customer or buyer, it must operate within constraints and guidelines that do not apply to other buyers because we are spending public funds. Those Government individuals with contracting authority bear direct responsibility for compliance with controls placed on the U.S. acquisition.

Contracting Officers

Have authority to enter, administer, and terminate contracts.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

METHODS OF CONTRACTING

- Actions above the Simplified Acquisition Threshold (SAT) require formal contracting procedures.
- Simplified Acquisition Threshold = \$250,000
- Competitive procedures available include:
 - Sealed Bidding (FAR Part 14)
 - Award only based on price and price-related factors
 - Contracting by Negotiation (FAR Part 15)
 - Price may or may not be the deciding factor for award
 - Best Value Continuum
 - FAR 6.401 encourages the use of negotiated acquisition for overseas contracts



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

TYPES OF CONTRACTS

- FAR Part 16 describes the types of contracts that may be used in acquisitions
- A wide selection of contract types is available to the Government
- Contract types are grouped into two broad categories:
 - Fixed-price contracts
 - Cost-reimbursement contracts
- Many factors must be considered in selecting contract type
- DOSAR 616.102-70 prohibits overseas posts from using of cost-reimbursement, fixed-price incentive, or fixed-price redeterminable type contracts, unless approved by the Procurement Executive



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

OBO Organization

- OBO has five Directorates to accomplish its mission:
 - **Operations (OPS)**
 - **Planning and Real Estate (PRE)**
 - **Program Development, Coordination, and Support (PDCS)**
 - **Construction, Facility, and Security Management (CFSM)**
 - Primary directorate for AUD interaction
 - **Resource Management (RM)**
 - Formally designates a liaison to OIG (RM/P)
- Foreign Affairs Manual
 - 1 FAM 280 – Bureau of Overseas Building Operations



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

THE ACQUISITION PROCESS

- FAR regulations mandate competition in contracting (unless an exception exists and is documented and approved).
 - Typical competitive acquisition follows these basic steps:
 - Publicizing the prospective contract
 - Issuing a written solicitation
 - Receiving proposals or quotation
 - Evaluating proposals or quotations received
 - Conducting negotiations/discussions, if needed
 - Awarding the contract
 - Administering the contract
 - Making changes and resolving disputes
 - Paying invoices
 - Contract closeout
- Pre-Award**
- Award**
- Post-Award
(Contract Administration)**



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

MODULE 1

Construction Contract Administration General Information



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Module Learning Objective

- Statutory authorities, regulations, and Department of State guidance regarding construction contracting
- Project Management vs. Contract Administration
- Discuss general aspects of Construction Contract Administration
- Discuss what happens immediately after the construction contract is awarded



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Contracting

- The goals of the federal procurement system is to ensure *timely, economic, and efficient procurement*
- Construction contracting is a complex business
- FAR Part 36 prescribes the policies and procedures “peculiar” to contracting for construction
- “Construction” means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property (FAR 2.101)
- Is construction a commercial item?



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

FAM and FAH Construction Highlights

- 1 FAM 280 outlines the responsibilities of the Bureau of Overseas Building Operations (OBO)
 - Office of Construction Management is responsible for OBO's construction program (1 FAM 286.1)
 - Designates project directors (PDs) to serve as contracting officer's representatives with limited contracting officer warrant (1 FAM 286.1)
- 14 FAH-2 Contracting Officer's Representative Handbook
 - **Post Award Contract Administration (14 FAH-2 H-500)**
- Volume 15 of the Foreign Affairs Manual (15 FAM) covers the acquisition, design, construction, furnishing, management, maintenance, disposal, and reporting of real property abroad



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Contract Delivery Methods

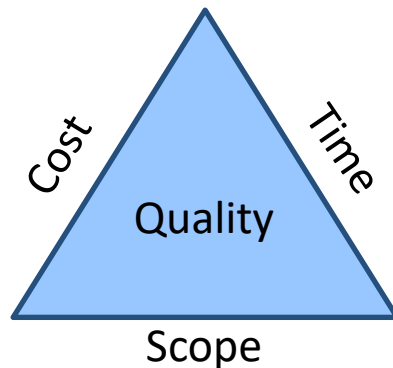
- Delivery method is determined during the acquisition planning phase of the project.
- OBO (and most other Government agencies) use two main project delivery methods:
 - Design-Bid-Build (D/B/B)
 - More traditional method
 - The Government completes a design through an Architect-Engineering (AE) contract
 - The Government uses this complete design as the scope of work to award the construction contract
 - Requires two contracts – one for design and one for construction
 - Design-Build (D/B)
 - Gaining popularity with Government agencies. Preferred by Contractors
 - Combines the design and construction into one contract
 - The construction Contractor hires the AE firm as a subcontractor
 - The contract is a construction contract – not an AE contract



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Project Management

- A project is as a temporary endeavor undertaken to create a unique product, service, or result.
- Project management focuses on the ability to deliver the QUALITY of the overall project while balancing the competing constraints of SCOPE, COST, and TIME.
- The “Iron Triangle” is a popular project management model.



- Must maintain a tradeoff among these competing constraints.
- Depending on the project, each of these constraints could be the most important to the end user.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Project Management vs. Contract Administration

- Both share similarities and common goals.
- They are **not the same**
- Project Management focuses on 5 different domains or process groups
- Contract Administration focus is after contract award – Executing, Monitoring & Controlling, and Closing
- SCOPE, COST, TIME, and QUALITY are fixed at contract award





ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

What is Contract Administration?

- The basic goal of contract administration is to ensure that the contract is performed, as written, by **both** the Contractor and the Government.
- Any action taken by either the Government or the Contractor during the time from **contract award to contract closeout**.
- It is during the contract administration phase that the Government must ensure it gets what it pays for.
- Administration of a contract is the **ultimate responsibility of the Contracting Officer**, since only a CO has authority to enter into, or change (modify) a contract on behalf of the U.S. Government.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

- **Contract Administration per 14 FAH-2 H-511-** Contract administration begins when the contract has been signed and ends with the administrative actions taken at contract closeout. This includes:
 - Monitoring the Contractor's technical progress;
 - Approving invoices for payment;
 - Monitoring subcontractor performance as appropriate;
 - Controlling U.S. Government property; and
 - Monitoring contract modifications
- **Additional Construction Contract Administration:**
 - Ensuring Quality standards are being achieved
 - Ensuring Safety & Security requirements are being enforced
 - Addressing unanticipated issues or developments
 - Preparing contract correspondence and modifications
 - Preparing Contractor performance evaluations (CPARS)
 - Closing out the contract
- “To assure performance of a contract so that the Government receives the value paid for....this is one of the most vital elements of what is called contract administration.”



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Contract Administration Planning

- Planning for Construction Contract Administration **does not** begin upon award of the construction contract.
- There are too many topics to list. Here are some key items:
 - Project site offices
 - Temporary utilities
 - Payment provisions
 - Work hours and days
 - Imported materials
 - Customs Clearance Procedure
 - VAT Exoneration Procedure
 - Contractor's access to site
 - Host country visa and registration requirements
 - **Safety**
 - **Security**
 - **Quality Management**
 - **Schedule Management**
 - **Contract Modifications**



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Site Staffing

- It is the policy of OBO to establish an onsite office on designated projects staffed by professional construction engineers, an engineering staff, and an administrative staff.
- The composition and number of technical personnel and staff will depend on the requirements of the project.
- The staff can be composed of OBO American personnel, locally hired staff, and Contractor personnel.
- The level and composition of the staff may change during the execution of the project.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Bonding – FAR Part 28

- A “Bond” is a written instrument signed by the Contractor (the “principal”) and a second party (the “surety”) assuring that the Contractor will fulfill its obligation to a third party (the Government).
- Bonds are a method of obtaining financial protection for the Government against financial loss or damages under construction contracts.
- There are three types of bonds:
 - **Bid bonds** (which are not required overseas)
 - **Performance bonds**
 - **Payment bonds**



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Bid Bonds

- A bid bond guarantees that the bidder will not withdraw a bid within the period specified for acceptance of that bid.
- Bid bonds are only used in sealed bidding.

Performance Bonds

- A performance bond guarantees that once the contract is awarded, the Contractor will complete the contract in accordance with its terms.

Payment Bonds

- A payment bond protects subcontractors and suppliers. It guarantees that they will be paid for amounts that the prime Contractor owes them.

Alternative to Bonds

- Contracting Officer may consider some alternative form of performance security if Contractors in the host country cannot normally obtain performance and/or payment bonds



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Notice to Proceed (NTP)

- FAR 11.404(b) requires the Contracting Officer to insert clause FAR 52.211-10 Commencement, Prosecution, and Completion of Work in fixed-price construction contracts.
- NTP starts the clock on the contract duration.
- Two versions of NTP:
 - Number of days
 - Date Specific
- NTP should be issued after performance and payment bonds, along with any other insurance requirements, are received and accepted by the Contracting Officer.





ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Preconstruction Conference

- FAR 42.5, FAR 36.212, FAR 36.522, and FAR 52.236-26
- Per OBO CM Guidebook - required for every OBO project
- Specification Section 011005, Paragraph 3.02.A
- Preconstruction Conference Highlights:
 - Conducted by the Contracting Officer and Project Director/COR with representatives from the Contractor
 - Conducted on or near the Notice to Proceed date
 - Coordinate the activities of all parties involved in construction and to identify and establish procedures for the execution and management of construction processes
 - **Not intended to change the contract requirements**
 - Participants without authority to bind the Government are not permitted to take action that in any way alters the contract
- When feasible, conducted at the project site



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

OVERSEAS BUILDINGS OPERATIONS		
PRE-CONSTRUCTION CONFERENCE AGENDA AND CHECKLIST		
See Guidebook Section 3.3		
CONTRACT NO: _____	DATE: _____	
CONTRACTOR: _____	CONFERENCE HELD AT: _____	
CONTRACT DESCRIPTION AND LOCATION:	PERSONS ATTENDING CONFERENCE	
	NAME	ORGANIZATION
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
PLACE "X" IN APPROPRIATE BOX IF ITEM IS DISCUSSED WITH CONTRACTOR "X"		
1. GOVERNMENT REPRESENTATIVES	a. CONTRACTING OFFICER (Name and title)	
	b. AUTHORIZED REPRESENTATIVE (Name and title)	
2. STATUS	COMMENCEMENT, PROGRESS AND COMPLETION OF WORK	
3. PROGRESS SCHEDULE	a. SUBMISSION FOR APPROVAL	
	b. ITEMS TO BE INCLUDED (COST AND MANPOWER LOADING)	
	c. COMPLIANCE WITH PROGRESS SCHEDULE AND ACTION BY CONTRACTING OFFICER IF CONTRACTOR FAILS TO MAINTAIN PROGRESS	
	d. LIQUIDATED DAMAGES	
4. CHANGES	AUTHORITY	
5. CORRESPONDENCE	ALL CORRESPONDENCE WILL BE ADDRESSED IN ACCORDANCE WITH THE PROJECT PROCEDURES MANUAL.	
6. SUPERINTENDENCE BY CONTRACTOR	NAME OF REPRESENTATIVE	
7. OTHER CONTACTS	a. COOPERATION WITH CONTRACTORS AND OTHER GOVERNMENT EMPLOYEES	
	b. USE OF ROADS AND UTILITIES	
	c. COORDINATION BETWEEN CONTRACTORS	
8. SUBCONTRACTORS	a. PERCENTAGE AND ITEMS OF WORK PERFORMED BY PRIME CONTRACTOR'S OWN FORCES	
	b. WRITTEN NOTICE OF SUBCONTRACTOR AWARD (General provision 21 of SF-23A & all clauses set forth in SF-19A in all subcontracts)	
	c. CONTRACTUAL RELATIONS BETWEEN SUBCONTRACTORS AND GOVERNMENT	
9. PAYMENTS TO	a. RETAINED PERCENTAGE	

CONTRACTOR	b. PAYMENT FOR MATERIAL AND EQUIPMENT ON SITE	
	c. STORAGE AND PROTECTION	
	D. VALUE ADDED TAX	
10. SHOP DRAWINGS	a. SUBMITTAL OF SHOP DRAWINGS	
	bb. SUBMITTAL OF EQUIPMENT LAYOUT	
	c. RESPONSIBILITY OF CONTRACTOR TO ALERT GOVERNMENT IF ITEMS ARE NOT FULFILLING CONTRACT REQUIREMENTS	
11. INSPECTION QA/QC	a. RIGHT TO REJECT DEFECTIVE MATERIAL OR WORKMANSHIP	
	b. NO REP. IS AUTHORIZED TO CHANGE ANY PROVISION OF THE CONTRACT	
	c. PRESENCE OR ABSENCE OF INSPECTOR SHALL NOT RELIEVE CONTRACTOR FROM REQUIREMENTS OF CONTRACT	
	d. ACCEPTANCE OF WORK	
	e. SPECIFICATIONS GOVERN WHEN DIFFERENCES EXIST BETWEEN DRAWINGS AND SPECIFICATIONS	
12. OPERATIONS AND STORAGE	a. STORAGE AREAS TO BE AUTHORIZED OR APPROVED	
	b. DISPOSAL AREAS	
13. LAYOUT OF WORK	a. GOVERNMENT ESTABLISHED HORIZONTAL AND VERTICAL CONTROL	
	b. CONTRACTOR RESPONSIBILITY FOR LINE AND GRADES	
14. COORDINATION OF TRADES	a. CONTRACTOR TO COORDINATE VARIOUS TRADES	
	b. CONTRACTOR TO COORDINATE SHOP DRWG. & LAYOUT OF VARIOUS TRADES	
15. GOVERNMENT-FURN. PROPERTY AND SALVAGE MATERIAL	a. DELIVERY, INVENTORY AND ACCEPTANCE	
	b. STORAGE AND PROTECTION	
	c. SALVAGE MATERIAL - SERVICEABLE OR UNSERVICEABLE	
16. PROTECTION OF MATERIAL & WORK	a. PROTECTION OF EXISTING STRUCTURES, UTILITIES, WORK AND VEGETATION	
	b. PERSONNEL SECURITY CLEARANCE AND IDENTIFICATION (If applicable)	
17. LABOR	a. EQUAL OPPORTUNITY	
	b. DAVIS-BACON ACT (Discrimination & Labor Department wage determination)	
	c. CONTRACT WORK HOURS STANDARDS ACT - OVERTIME COMP.	
	d. APPRENTICES	
	e. PAYROLL RECORDS AND PAYROLLS	
	f. COPELAND ACT	
	g. WITHHOLDING OF FUNDS TO ASSURE WAGE PAYMENT	
	h. SUBCONTRACTORS - TERMINATION	
18. NOTICE OF DELAYS	a. NOTICE TO CONTRACTING OFFICER OF ACTUAL & POTENTIAL LABOR DISPUTES	
	b. OTHER ACTUAL AND POTENTIAL DELAYS	
19. SMALL BUSINESS SUBCONTRACTING PROGRAM	a. CONTRACTOR DESIGNATES LIAISON OFFICER	
	b. MAINTAINS RECORDS AVAILABLE FOR REVIEW	
	c. NOTIFIES CONTRACTING OFFICER IF SMALL BUSINESS IS NOT SOLICITED FOR SUBCONTRACTS	
20. COMPLIANCE	COMPLIANCE WITH LOCAL RULES AND REGULATIONS	
21. SAFETY	a. ACCIDENT PREVENTION	
	b. CLEANING-UP	
22. SECURITY	a. SITE	
	b. TRANSIT	

CLASS



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

	c. SSM	
	d. CAGs	
	e. CSTs	
	f. SECURE STORAGE	
	g. ACCESS	
	h. OTHER	
23. DIVISION 1 REQUIREMENTS	a. PROJECT DIRECTOR'S OFFICE	
	b. PHOTOGRAPHS	
	c. TRAINING	
	d. MAINTENANCE MANUALS	
	e. AS-BUILT DRAWINGS	
24. OTHER ITEMS (Add as necessary) (Key to previous items if applicable)	a. PROJECT COMPLETION CHECKLIST (see P&PD CM-01 dated 02/20/13)	
	b. TRAFFICKING IN PERSONS	
CERTIFICATION: THE PRECEDING ITEMS MARKED BY "X" HAVE BEEN DISCUSSED.		
SIGNATURE FOR THE CONTRACTOR		SIGNATURE FOR THE GOVERNMENT
REMARKS (Continue items on attached sheet(s), if necessary)		

**It is important to document
the outcomes of all meetings!**



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

MODULE 2

Contract Documents and Files



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Quick Review

- **Contracting Officer (CO)**
 - Means a person with the authority to enter into, administer, modify, and/or terminate contracts
 - Vested with an unlimited or limited monetary authority
 - Responsible for ensuring compliance with the terms of the contract
- **Contracting Officer's Representative (COR):**
 - Means a person designated in writing by the contracting officer to assist in the technical monitoring or administration of a contract
 - The COR is not authorized to make any commitments or changes that affect the price, quality, quantity, or delivery terms of a contract or modify the scope of the work contained in the contract. *

* Under normal circumstances, CORs would not be able to make any contractual changes. However, CORs may be provided limited warrants in the designation letter per State Department policy.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

COR Responsibilities

- The list of COR responsibilities are extensive, complicated, and important to successful project delivery
- These include:
 - Enforce compliance with all contract requirements
 - Interpret plans/specifications
 - Review and approve submittals
 - Monitor contractor quality control
 - Monitor progress and safety
 - Review and approve payment estimates*
 - **Maintain COR file**
 - Ensure the Contracting Officer remains informed of any project issues or actions which could lead to claims
- The COR must depend on their team to ensure all duties are performed successfully.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

PROJECT DOCUMENTATION

- The Contracting Officer and Contracting Officer's Representative are responsible to ensure that all formal and informal contract interpretations, actions and directives are fully documented.
- COR Designation Letter – “...most important responsibility for establishing and maintaining adequate COR files. These files are your primary tools for carrying out your duties and responsibilities as the COR for this contract and must document actions you take as COR.”
- Documentation develops the formal record to better understand COR actions and the reasons behind such actions.
- Care should be taken to record and preserve pertinent correspondence, meeting minutes, data, photographs, and other documentation that may become the basis for a dispute.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

CONTRACT DOCUMENTS

- All construction contracts exceeding \$2,000 must use a written solicitation and a written contract.
- Uniform Contract Format

Part I – The Schedule

Section A – Solicitation/Contract Form

Section B – Supplies or Services and Prices/Costs

Section C – Description/Specifications/Work Statement

Section D – Packaging and Marking

Section E – Inspection and Acceptance

Section F – Deliveries or Performance

Section G – Contract Administration Data

Section H – Special Contract Requirements

Part II – Contract Clauses

Section I – Contract Clauses

Part III – List of Documents

Section J – List of Attachments

Part IV – Representations and Instructions

Section K – Representations, Certifications, and
Other Statements of Offerors

Section L – Instructions, Conditions, and
Notices to Offerors

Section M – Evaluation Factors for Award



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

FAR Subpart 4.8 – Government Contract Files

- This subpart prescribes requirements for establishing, maintaining, and disposing of contract files (FAR 4.800)
- The head of each office performing contracting, contract administration, or paying functions shall establish files containing the records of all contractual actions.
- A contract file should generally consist of-
 - 1) The contracting office contract file that documents the basis for the acquisition and the award and the assignment of contract administration (including payment responsibilities);
 - 2) The contract administration office contract file that documents actions reflecting the basis for and the performance of contract administration responsibilities; and
 - 3) The paying office contract file that documents actions and reflects contract payments.
- FAR 4.803 provides examples of the records normally contained in each contract file.
- DOSAR 604.803-70 requires specific format regardless of dollar value:
 - Form DS-1930, Domestic Contract File Table of Contents
 - Form DS-1929, Overseas Contract File Table of Contents
 - Form DS-1928, Contract Administration File Table of Contents



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Overseas Contracting & Simplified Acquisition Guidebook

- “Contract administration for construction contracts poses many more difficulties than for routine supply and service contracts.”
- Constant monitoring of the contractor’s work is essential. The Contracting Officer or COR should have daily interaction with the contractor, preferably in the form of on-site inspection of work.
- Once the construction contract is awarded, the Contracting Officer should send a delegation letter to the Contracting Officer’s Representative (COR). This COR memo highlights some of the special functions that are required for construction contracts.
- Maintain a file documenting significant actions and containing copies of trip reports, correspondence, and deliverables received under the contract.

Mandatory Documents	In File*
COR appointment letter and other documents describing the COR’s duties and responsibilities	
Documentation of COR actions taken in accordance with the delegation of authority	



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Post Award Documents	In File**
Copy of the Contract and Modifications	
DD254 form (Contract Security Classification Specification)	
Copies of Task Orders, Delivery Orders and Modifications	
Copy of Contractor's Proposal	
Monitoring Contract Performance Documents	
Documentation of Acceptability/Unacceptability of Deliverables	
Payment Log (Including any incentives or disincentives)	
Running Log of Invoiced Amount Against Contract Line Items	
Invoices (Initial Invoice Received and Final Paid/Approved Invoice)	
Interim and Final Technical Reports or other Work Products	
Reports to Contracting Officer	
COR's Progress/Performance Assessments	
COR's Final Assessment of Contract Performance	
Contract Administration Decisions	
Documentation of On-Site Visit Results	
Disposition of Government Property	
Performance Remedies	
Contract Closeout Information	
General Correspondence	
Records of Pertinent E-mails, Telephone Conversations, Meeting Minutes	
Records of Trip Reports	



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Management Guidebook

- Office of Construction Management (CFSM/CM) within OBO manages major construction, renovation, and security-upgrade projects.
- A Project Director is assigned to each major project as the COR at the site and has primary responsibility for the project.
 - Under the supervision of the Senior Construction Executive.
 - Enforces the terms and conditions of the construction contract.
 - Ensures that all work is inspected and tested in accordance with the approved Quality Assurance (QA) Program.
 - Reviews all proposals for changes and makes a recommendation for action by the Contracting Officer.
 - Provides technical interpretations of the contract plans and specifications, and act as arbiter of any disputes with the Contractor.
 - Approves and monitors the Contractor's construction schedule.
 - Ensures that all construction is carried out in a secure manner in accordance with the construction security plan (CSP).
 - Ensures that the Contractor conforms to the project safety plan.
 - Prepares and maintains reports and logs.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Management Guidebook Project Execution

- Site operations can start at varying times depending on the type of delivery method (Design-Build vs Design-Build-Build) being executed and the amount of site work achieved during the planning phases.
- The Construction Administration phase starts when the PD is on-site.
- One of the main responsibilities of the PD, as the COR, is the preparation and maintenance of reports and logs.
- Project Director Reports:
 - Daily Log
 - Weekly Activity Report
 - Monthly Progress Reports
 - Contractor Performance Assessment Reporting System (CPARS)
 - Project Completion Report



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Daily Log

- The PD is the primary recorder of facts and events as they occur on the project.
- The PD must prepare a daily log of construction for each project workday, even if no work is performed that day.
- The PD must stay current with these logs and obtain copies of the Contractor's QC Daily Reports.
- This log provides details of the daily work and effort performed.
- Includes entries for:
 - Daily hours worked
 - Contractor personnel
 - Work Performed
 - Weather conditions
 - Safety issues
 - Major equipment used/idle



Information included should be similar to the following:

- (1) Date
- (2) Type of weather
- (3) Types of equipment (idle and employed)
- (4) Type and amount of work performed that day.
- (5) Pertinent information on progress of work, delays, causes of delays, and extent of delays.
- (6) Instructions given to the contractor
- (7) Controversial matters, including complete details of any matter
- (8) Visitors to the project.
- (9) Safety violations observed and corrective measures taken.
- (10) CQC phases attended and instructions given.
- (11) Miscellaneous remarks pertinent to the job.
- (12) Comments on entries in the contractor's Daily Construction Quality Control Reports (QCRs).



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Weekly Activity Report (WAR)

- An internal reporting tool for OBO.
- Written by the PD for review and use the Construction Executive and construction management staff and covers the period of Sunday through Saturday.
- Reports delivered no later than Monday, 7 a.m. ET of each week.

Monthly Progress Report

- Prepared by the PD and transmitted to the Construction Executive no later than the 10th calendar day of the following month
- Executive Summary contains detailed statements that accurately describe the project status and the result of field activities during the reporting period
- Provides the PD an opportunity to summarize the monthly progress of the project and to make additional comments on special occurrences and unresolved matters
- If there are several projects at a given Post, the PD will prepare a Monthly Progress Report for each project.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Contractor Performance Evaluations

- FAR 42.15 – Contractor Performance Information establishes the responsibilities for recording and maintaining contractor performance
- Prepared for each construction contract of \$750,000 or more, and for each construction contract terminated for default regardless of contract value
- Shall be performed at least annually
- COR responsibility per the COR Designation Memo from the Contracting Officer
- Contractor Performance Assessment Reporting System (CPARS) is the official source of past performance information
- An evaluation includes seven evaluation areas to rate the contractor's performance – 1) Technical/Quality of Product or Service 2) Cost Control 3) Schedule/Timeliness 4) Management or Business Relations 5) Small Business Subcontracting 6) Regulatory Compliance 7) Other



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Contractor Performance Assessment Reporting System (CPARS) OBO Guidance

- FAR 42.1502 requires the contracting agency to evaluate the Contractor's performance for each construction contract greater than \$750k
- The OBO Construction Management Guidebook requires evaluations for construction contracts greater than \$150k.
- OBO uses CPARS for contractor evaluations
- OBO registers new projects in CPARS within 30 days of contract award
- Contracting Officer is responsible for entering the assessment into CPARS; the PD performs the assessment.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Contractor Requirements

- The contract specifications includes a significant amount of required documentation from the construction contractor from award to closeout
- It is imperative for the COR to know the contract requirements to ensure the Government receives all documentation
- Construction and Commissioning Coordination Meetings are one of the most important meetings throughout the duration of the project
- The next modules will cover some of the key contract administration requirements for the contractor



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction and Commissioning Coordination Meetings

- Specification Section 011005, Paragraph 3.02.B
- Purpose includes:
 - Promoting a full exchange of information between the Government and the Contractor
 - Promoting open and honest discussion
 - Identifying areas of concern by each party
- Commence immediately upon mobilization to the project site and are held weekly
- The contract specifications outline the required agenda
- Contractor required to provide the meeting minutes the next working day



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

...Meetings, Meetings...and more Meetings

- Numerous contractually required meetings (plus ad hoc meetings and inspections).
- Partial list of the additional Meetings
 - Project Progress Meetings (Spec Section 011005)
 - Safety Meetings (Spec Section 013525)
 - Quality Control Meetings (Spec Section 014010)
 - Building Information Modeling Coordination Mtngs (Spec Section 013114)
 - Scheduling Meetings (Spec Section 013205)
 - Warranty Meetings (Spec Section 017705)
- Partnering Conference
- Utility Outage Planning Meetings
- Prefinal & Final Inspections

It is important to document the outcomes of all meetings!



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

MODULE 3

Construction Quality Management



"The **bitterness** of **poor quality** remains long after the sweetness of **low price** is forgotten."

~Attributed to Benjamin Franklin

"The **bitterness** of **poor quality** remains long after the sweetness of **fast delivery** is forgotten."

~original adjusted by Shawn McKee



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

**In the 1980s and 1990s,
what company used the tagline:**

“Quality is Job 1”



Quality is Job 1.

**“Quality means doing the right thing
when no one is looking.”**

~Henry Ford



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Quality Management

- Policy
 - Obtaining quality construction is a combined responsibility of the construction contractor and the Government.
- Highlights
 - Contractors are responsible for all activities necessary to manage, control, and document work to ensure compliance with the contract plans and specifications.
 - Contractor's responsibilities include ensuring adequate quality control services are provided for work accomplished on- and off-site.
 - Government is responsible for quality assurance and providing clear contract documents.
- Far Part 36 and FAR Part 46 assist in identifying the responsibilities for both the Government and the contractor.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Definitions

Quality – the conformance to properly developed requirements established by the contract specifications and drawings

Quality Control (QC) – The construction contractor's system to manage, control, and document their own, their suppliers, and their subcontractor's activities to comply with contract requirements

Quality Assurance (QA) – The procedures by which the Government fulfills its responsibility to be certain the contractor's QC is functioning and the specified end product is achieved

Quality Management – All control and assurance activities instituted to achieve the product established by the contract requirements



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Quality vs. Grade

- Quality is the conformance to properly developed requirements established by contract.
- Grade is a product rank (bells and whistles)
- Low quality is always a problem; but low grade may not be a problem
- Low Quality Example – Software with numerous features (high grade) but is unreliable and breaks often (low quality)
- Low Grade Example – Software with limited features (low grade) and is reliable with very limited down time (high quality)





ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW





ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

1 FAM 286.1 Office of Construction Management, Paragraph 11

- Monitors **construction contractor quality control** and on-site safety and security programs to ensure compliance with contract requirements and Department and Overseas Security Policy Board (OSPB) security policies and standards

FAR Part 36 – Construction and Architect-Engineer Contracts. This FAR Part prescribes policies and procedures *peculiar to contracting for construction* and architect-engineer services. It includes requirements for using certain clauses in construction contracts.

- *Material and Workmanship (FAR 52.236-5)*
- *Specifications and Drawings for Construction (FAR 52.236-21)*

FAR Part 46 – Quality Assurance. This FAR Part prescribes policies and procedures to ensure that supplies and services acquired under Government contract conform to the contract's quality and quantity requirements. Included are inspection, acceptance, warranty, and other measures associated with quality requirements

- *Inspection of Construction Clause (FAR 52.246-12)*



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Inspection of Construction Clause (FAR 52.246-12)

- Policy
 - Requires the Contractor to adequately inspect work and maintain records
 - Establishes the right of the Government to inspect work
 - Requires the contractor to correct defective work
- Purpose
 - To ensure the Government gets what is contractually required
- Highlights
 - Risk of conformance is completely on the Contractor
 - Requires Quality Control for construction contracts
 - Provides remedies to the Government
 - Acceptance is final except for latent defects, fraud, gross mistakes amounting to fraud, or rights under any warrantee guarantee



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specifications and Drawings for Construction (FAR 52.236-21)

- Requires:
 - The Contractor must keep drawings and specifications on-site.
 - Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both
 - In case of difference between drawings and specifications, the **specifications shall govern.**
 - Shop drawings
 - Showing in detail the proposed fabrication and assembly of structural elements
 - Showing the installation of materials and equipment
 - Contractor must coordinate, review, and approve prior to submitting
 - Must be submitted for Government approval
 - Approval does not relieve the contractor from responsibility of conformance
 - **Variations must be identified by the contractor and approved by the GOV**



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Material and Workmanship (FAR 52.236-5)

- Requires
 - New materials, equipment & articles of suitable grade for the project.
 - Contractor must obtain Government approval of machinery and other equipment to be incorporated into the work
 - When required by the contract, the Contractor shall also obtain Government approval of the material to be incorporated into the work
 - All work to be performed in a skillful and workmanlike manner. Specifications for each feature of work will define these standards and required grade.
 - Contracting Officer may remove incompetent, careless, or otherwise objectionable employees.
- Establishes the basis for the Submittal Process



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Submittals

- **What are Submittals?**
 - In construction management, submittals are shop drawings, material data, samples, and product data. Submittals are required primarily for the architect and engineer to verify for correct installation on the project.
- Procedures described in contract Specification Section 013305
- The submittal process is intended to reduce the risk to the contractor
- Submittal Register –
 - A list of the submittals required to be provided
 - Contractor developed encompassing Division 01 Specifications and Contract Technical Specifications
 - No later than 30 days before prior to start of construction
 - Integrated in the Project Execution Schedule (PES)
- Procedures are different for D/B and D/B/B delivery methods.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Equipment Submittal Example:

- Section 11 31 13 outlines the minor equipment for the project
- Para 2.4 outlines the requirements for the Refrigerator Under Counter
- Contractor will review the requirements for this piece of equipment
- Contractor identifies equipment that meets these requirements
- Contractor provides the Government with a submittal identifying the equipment they plan to purchase and install
- Include product literature and data
- Government review and approval

JJRTC Canine Training Facility

JJRTCK9FACILITY

bolting to posts and at the center for strength and ease of assembly.

DECKING: Open wire decks to be more than 50% open required for flow-through from sprinkler water systems. finish in chrome providing a long-lasting finish over hardened carbon steel. Chrome finish deposited over a nickel surface.

LOAD CAPACITY: Design each shelf deck to support 1000 pounds total.

FINISH: Durable baked-on Gray enamel finish - phosphatized to resist rust and corrosion.

2.4 REFRIGERATOR UNDER COUNTER - (Base Bid)

Provide a compact refrigerator mounted under counter with two drawers for storing veterinary ointments and medicines. Provide refrigerator meeting minimum requirements as follows:

- a. Refrigerator 4 cubic feet, freezer not required.
- b. Rated for exterior use with stainless steel panels protecting against corrosion.
- c. Two drawer refrigerator with sealed gaskets for maintaining temperature and lock-in moisture.
- d. Drawers must have lock securing both drawers.
- e. Soft Close Drawers.
- f. Adjustable drawer dividers.
- g. Touch screen controls with soft-on LED lights for varying degrees of brightness.
- h. Adjustable temperature control from 34°F to 45°F

2.5 ICE MACHINE - (Base Bid)

Provide a compact Ice machine. Provide Ice machine meeting minimum requirements as follows:

- a. Commercial under counter ice maker with vertical lift cooler type door top panel.
- b. Capability to produce up to 150 lb. of ice per day and store 80 lb. of ice daily
- c. Condenser Type - Air cooled.
- d. Cube Size - Half size cubes.

2.6 WASHING MACHINE - (Option)

Provide clothes washing machine as new top-load high-efficiency (HE) washing machine meeting minimum requirements as follows:



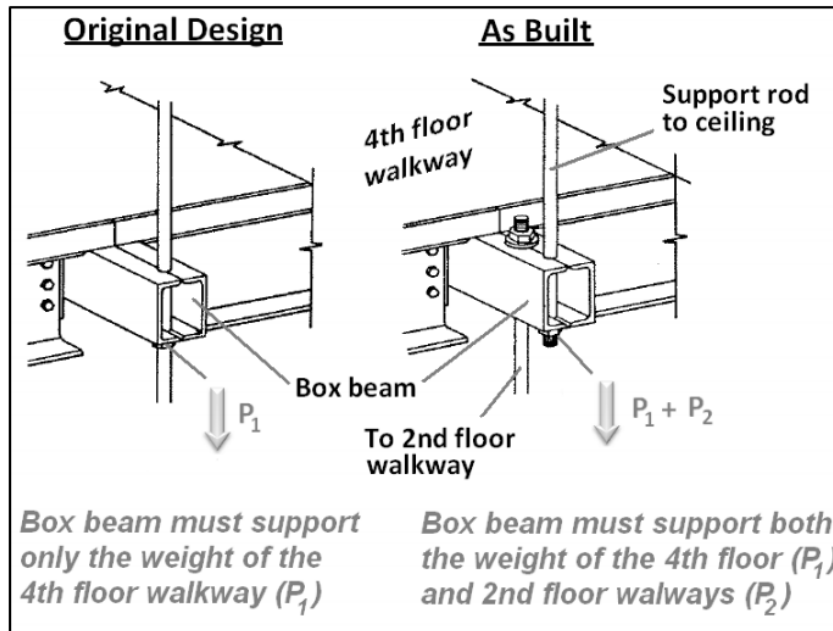
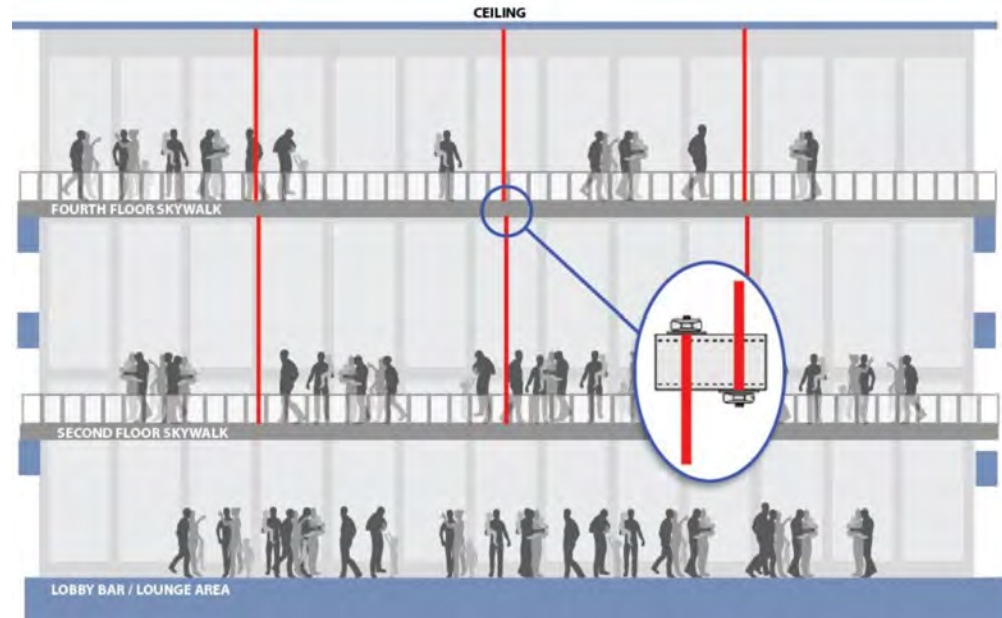
ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Shop Drawings

- FAR Part 2 and FAR 52.236-21 includes definitions for “Shop drawings”
- Drawings showing fabrication, assembly, or installation, as well as diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data.
- What does this really mean?
 - **Shop drawings** are usually produced by subcontractors and suppliers under their contract with the prime contractor.
 - **Shop drawings** are subcontractor's drawn version of information shown in the **contract design documents**.
 - **Shop drawing** shows more detail than the contract design documents.

Hyatt Regency Hotel, Kansas City, Missouri

Walkway Collapse





ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Submittals Substitutions for Material or Products

- Described in contract Specification Section 013305, Para 3.02(C)
- Contractor proposals for substitutions of materials or products required by the Contract specifications and drawings shall include a specific description of each substitution in writing and provide justification.
- No proposals for substitutions of materials or products will be accepted after 90 days from the initial NTP.
- Submittal Register field entitled "Contains Variations" must indicate YES
- The Contractor shall identify all potential scope, cost, time, and quality changes at the time of the submittal



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 014010, Contractor Quality Control

- As discussed, clause Inspection of Construction (FAR 52.246-12) establishes the foundation for the Contractor Quality Control requirements.
- The contract defines the specific Contractor Quality Control requirements in Specification Section 014010.
 - This section requires that the Quality Control used during the project construction phase must ensure that the facility meets the contract design, quality and functional standards.
 - The Contractor is required to establish, implement and maintain an effective **Construction Quality Control (QC) Plan**. The QC Plan shall cover all construction operations both onsite and offsite
- Most agencies use a template for this contract specification. However, the actual specification section issued with the construction contract must be reviewed when performing an audit on a specific project.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 014010, Contractor Quality Control

- Paragraph 1.03 lists the required Quality Control submittals:
 - Contractor's Quality Control Plan
 - Submitted within thirty calendar days after Contract Award
 - No physical work is permitted before acceptance of the QC plan
 - Name, qualifications, duties, responsibilities of each person assigned QC functions
 - Government can reject personnel not qualified
 - Quality Control Reports
 - Submitted **DAILY**
 - Begin on the first day the contractor's forces arrive on-site
 - Continue until contractor's forces completely demobilize
 - Testing agency qualifications



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 014010, Contractor Quality Control Paragraph 3.01, Construction Quality Control Plan (QC Plan)

- Description of the quality control organization (lines of authority)
- Name, resume, duties, and responsibilities of QC personnel
- Letter signed describing the responsibilities of the QC Manager and delegates sufficient authority to effectively implement QC Plan.
- Procedures for scheduling, reviewing, certifying, and managing submittals.
- Procedures to control, verify, accept, and document each specific test required.
- Contractor must provide a written report for each QC Plan inspection and test performed.
- Procedures for tracking preparatory, initial, and follow-up phases of control
- Procedures for identifying and correcting deficiencies
- A list of Definable Features of Work



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Definable Features of Work (DFOW)

- In general, a DFOW is a task:
 - Separate and distinct from other tasks
 - Separate quality control requirements
 - May be performed by different trades
- Contractor required to provide this list in QC Plan
- As a minimum, each section of the technical specifications can be considered as a definable feature of work
 - Specification 03 30 00 – Cast-In-Place Concrete
 - Specification 09 29 00 – Gypsum Board
 - Specification 26 51 00 – Interior Lighting
- Activity in the project schedule that results in a physical product



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 014010, Contractor Quality Control Paragraph 1.04, Qualifications of Quality Control Personnel

- QC Manager
 - Bachelor's Degree (Engineering, Architecture, Construction Management, or Quality Control)
 - Minimum of 10 years experience implementing construction QC programs for similar projects
 - On site all times during construction
 - Employee of the prime contractor
 - Not assigned any other duties
 - Report to the contractor's home office and not PM on-site
- QC Inspection and Testing Personnel
 - College degree in engineering or architecture relevant to specialty and 8 years implementing CQC for similar projects
 - High school education and 15 years experience



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 014010, Contractor Quality Control Paragraph 3.02, Quality Control Meetings

- QC Plan Coordination Meeting
 - Prior to starting construction
 - Contractor scheduled with the Government
 - Mutual understanding of the QC plan details
 - Meeting minutes prepared by the Contractor – signed by the Contractor and the Government
 - Either party can call subsequent meetings to reconfirm the mutual understandings and/or address deficiencies in the QC system
- Weekly QC Meetings
 - After the start of construction
 - At the project site by the Contractor's QC Manager
 - 48-hour notice to the Government



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 014010, Contractor Quality Control Paragraph 3.03, Three Phase Approach to Quality Control

- Core of the Government's approach to the Construction Quality Management
- The three phases of control include:
 - Preparatory Phase
 - Initial Phase
 - Final Phase
- Requires the Contractor to plan and schedule work to ensure they are contractually prepared to start each definable feature of work.
- The processes for each are outlined in contract Specification 014010, Paragraph 3.03.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Preparatory Phase

- Performed prior to starting any physical work on each definable feature of work (DFOW).
- Preparatory Meeting must be called by the QC Manager to demonstrate that the Contractor has all the necessary approvals, materials, equipment, and personnel to start the definable feature of work
 - Agenda to the Government 48 hours in advance of the meeting
 - Attended by the superintendent and foreman responsible for DFOW
 - Results documented by minutes prepared by QC Manager and attached to the daily QC report.
- Actions taken during the Preparatory Phase:
 - Review applicable plans and specifications for the DFOW
 - Approvals of material and/or equipment submittals or shop drawings
 - Physically examine work area
 - Physically examine on-site materials and equipment for compliance with approved submittals.
 - Review of appropriate Activity Hazard Analysis (AHA)



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Initial Phase

- Performed at the beginning of field construction for each DFOW
- Verify that the quality control for the DFOW discussed at the Preparatory Meeting is being implemented.
- Establish the level of workmanship and verify that it meets minimum acceptable workmanship standards.
- Review compliance with safety requirements including the AHA.
- Contractor will provide the agenda at least 48 hours in advance of beginning the initial phase.
 - Separate minutes for this phase shall be prepared by the QC Manager and attached to the daily QC report.
- Initial phase should be repeated:
 - Anytime a new crew begins work on a DFOW
 - Anytime acceptable quality standards established are not being met



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Follow-up Phase

- Continuous action throughout the construction project.
- Involves **daily** checks to ensure that previously established guidelines are being followed
- The routine checks must be made a matter of record in the Contractor's Quality Control documentation.
- Final Follow-up checks shall be conducted, and all deficiencies corrected prior starting additional features of work that could be affected by deficient work.
- The contractor must not build upon or conceal deficient work.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 014010, Contractor Quality Control Paragraph 3.04, Daily Reporting

- Contractor provides QC Daily Reports that provide factual evidence that quality control activities and/or tests have been performed
- Work performed each day, giving location, description, and by whom performed.
- List deficiencies noted along with corrective action.
- Submittals reviewed, with contract reference, by whom reviewed, and action taken
- Job safety evaluations stating what was checked, results, and instructions or corrective actions taken.
- A description of trades working on the project; the number of personnel working; equipment; weather conditions; and any delays encountered
- Submitted to the Government daily by 8:00am the following day



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

MODULE 4

Schedule Management



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Schedule Management

- Main knowledge area for Project Management Professionals for all projects
- Schedule Management includes the processes required to manage the timely completion of the project.
- The schedule provides a detailed plan that represents how and when the project will deliver the results defined in the project scope.
- The detailed project schedule should remain flexible throughout the project.
- Managing the schedule includes:
 - Planning the schedule includes:
 - Define Activities
 - Sequence Activities
 - Estimate Durations
 - Develop Schedule
 - Controlling the schedule is the processes of monitoring the status of the project schedule and managing the schedule baseline.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Planning the Schedule - Define Activities

- Process of identifying and documenting the specific actions required to produce the project deliverables
- Decomposition is a technique used for dividing and subdividing the project scope into smaller, more manageable parts
- Key benefit of this process is that it decomposes work packages into schedule activities that provide the basis for: Estimating, Scheduling, Executing, and Monitoring
- Final output would include an Activity List and a Milestone List
- Milestone is a significant point or event in a project.
 - Mandatory milestone = required per the contract
 - Optional milestones = based on historical information, best practices



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Planning the Schedule - Sequence Activities

- Identify and document the logical sequence of work among the activities identified.
- Activity relationships

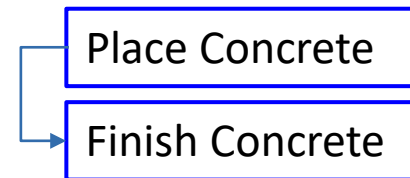
Finish-to-Start (FS)

A must finish before B can start



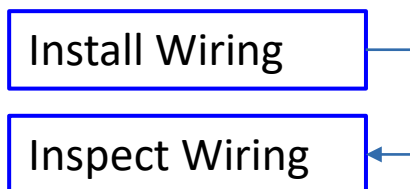
Start-to-Start (SS)

A must start before B can start



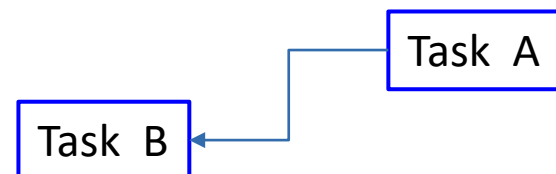
Finish-to-Finish (FF)

A must finish before B can finish



Start-to-Finish (SF)

A must start before B can finish

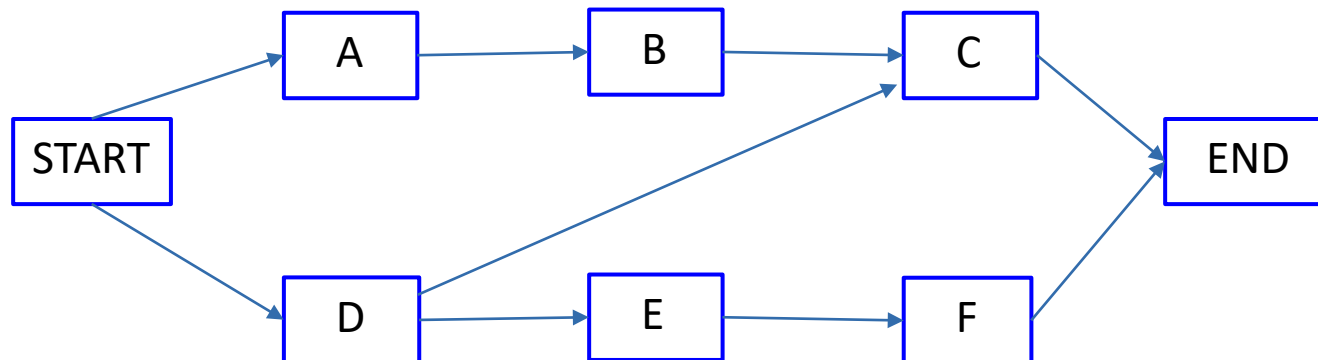




ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Planning the Schedule - Sequence Activities

- Precedence Diagramming Method (PDM)
 - Uses BOXES as nodes to represent activities
 - Connects BOXES with ARROWS which represent dependencies
 - Allows for all four relationships (FS, SS, FF, SF)
 - Used in the Critical Path Method (CPM)





ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Planning the Schedule - Estimate Durations

- Estimating the number of work periods needed to complete each activity
- Work periods for construction projects are days
- Incorporate additional time (buffer) to activity durations to account for schedule uncertainty.
- *A Buffer is not Padding.* Do not PAD the schedule.
- Padding undermines the ability to develop and maintain realistic schedules:
 - Student Syndrome – Put off work until the last moment before a deadline
 - Parkinson's Law – Work expands to fill the available time for its completion



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Planning the Schedule - Develop Schedule

- Develop the schedule model with planned dates using the activities, sequences, and durations.
- Deadline may require developing the schedule backward.
- Can't finish the project on-time???
 - Compress or shorten the project schedule
 - Without changing scope
 - Must focus on the critical path
- Critical Path
 - The longest path in the diagram (the path with the longest duration)
 - The total float is zero (or negative)
- Schedule compression techniques:
 - Crashing – Adding resources; more cost and increased risk
 - Fast Tracking – Do activities in parallel; more quality risk



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Critical Path Method

Early Start	Duration	Early Finish
ACTIVITY NAME		
Late Start	Total Float	Late Finish

LEGEND

ACTIVITY	PREVIOUS ACTIVITY	DURATION (Days)
Start	-	-
A	Start	5
C	Start	11
B	A	5
D	B , C	7
E	C	3
F	E	2
Finish	D , F	-

- Quick Review
 - Activities are defined and listed
 - Activity sequences are defined (Finish-to-Start most common relationship)
 - Activity durations are estimated
- Next Step - Translate the tabular information to develop the schedule



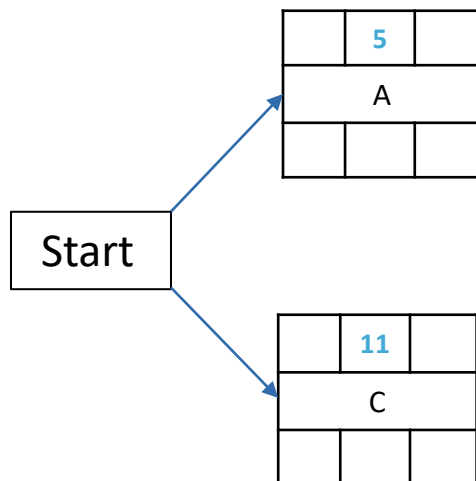
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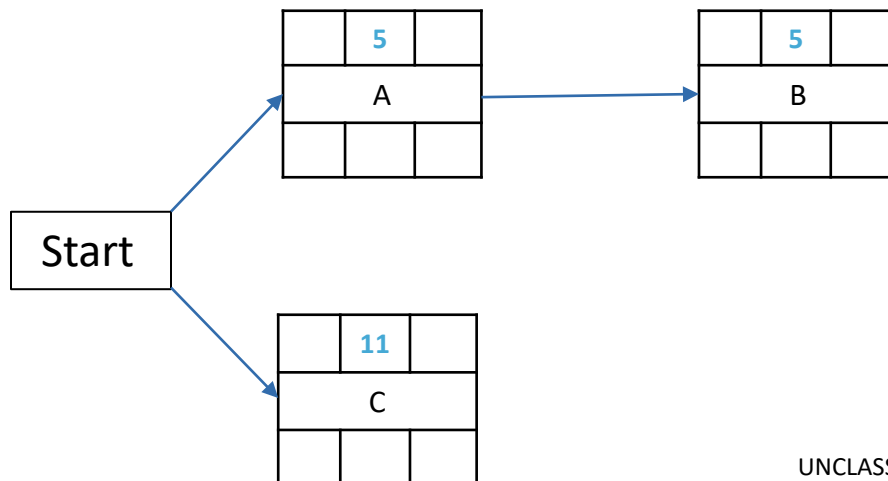
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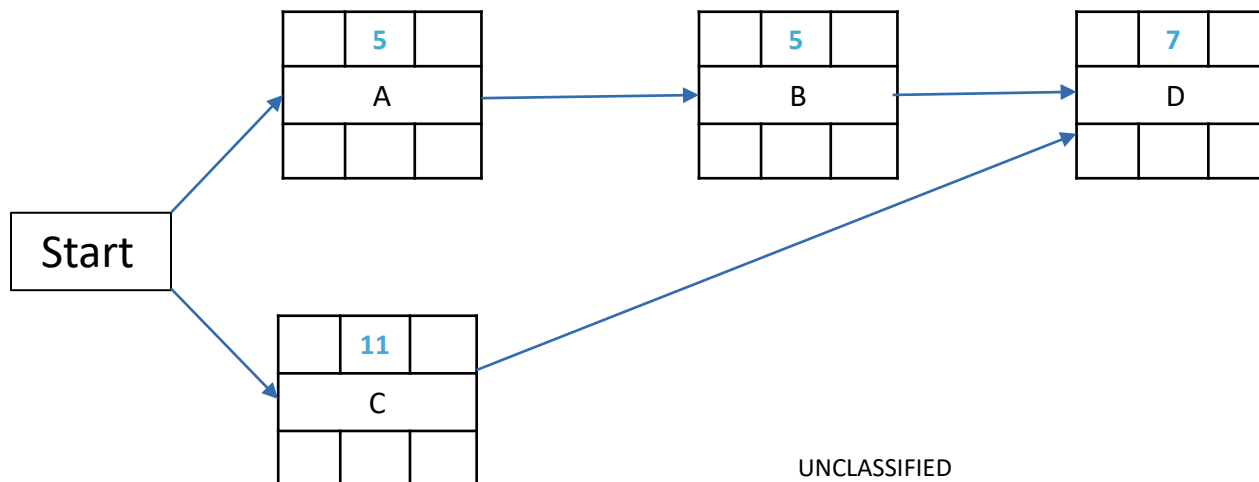
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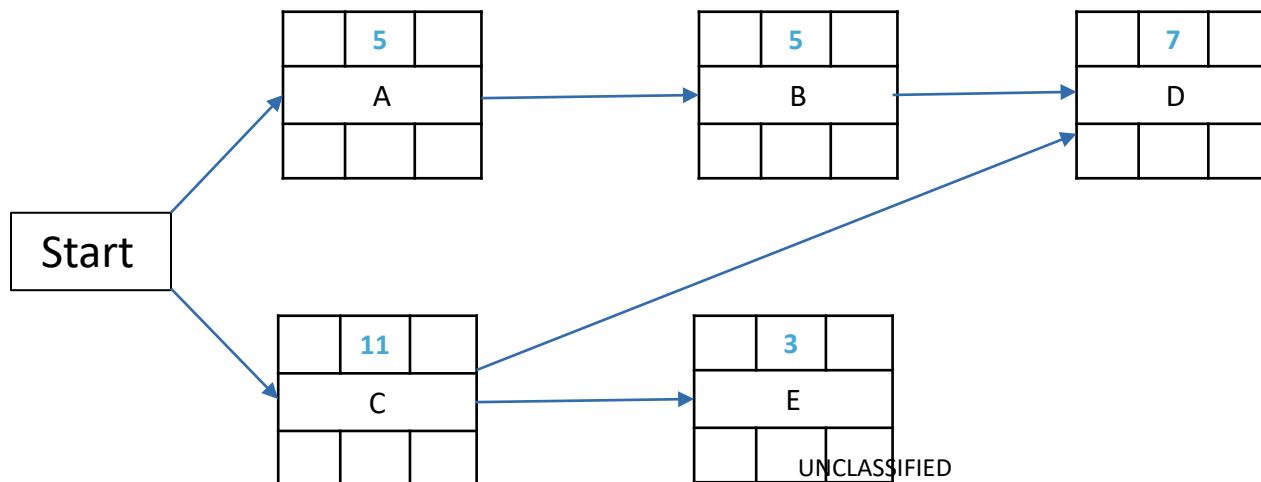
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Finish	D , F	-



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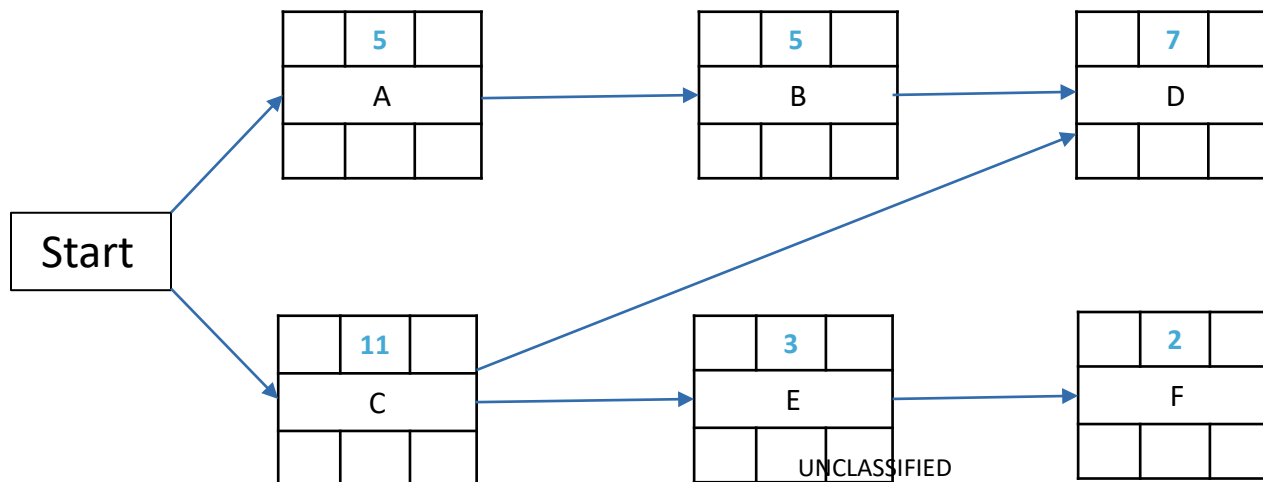
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Finish	D , F	-





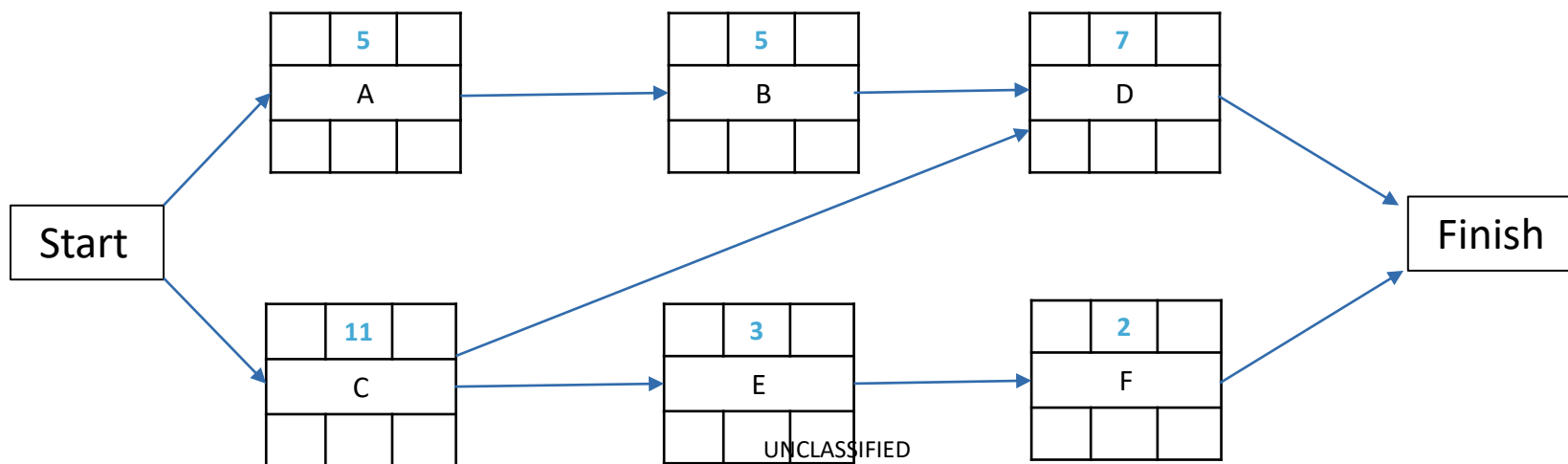
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Early Start	Duration	Early Finish
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LEGEND

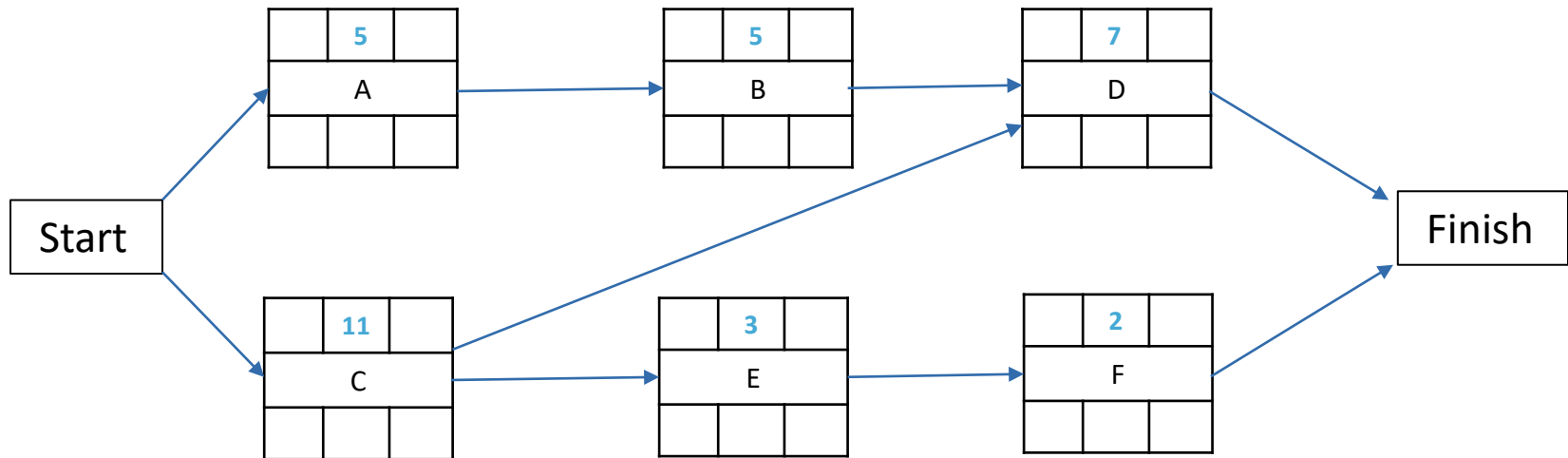
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A	Start	5
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B	A	5
D	B , C	7
E	C	3
F	E	2
Finish	D , F	-





ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Critical Path Method



- Critical Path = Longest Path
- How many schedule paths are there for this project?
 - $\text{START} - \text{A} - \text{B} - \text{D} - \text{FINISH} = 5 + 5 + 7 = 17$ days
 - $\text{START} - \text{C} - \text{D} - \text{FINISH} = 11 + 7 = 18$ days
 - $\text{START} - \text{C} - \text{E} - \text{F} - \text{FINISH} = 11 + 3 + 2 = 16$ days

Early Start	Duration	Early Finish
ACTIVITY NAME		
Late Start	Total Float	Late Finish



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Critical Path Method

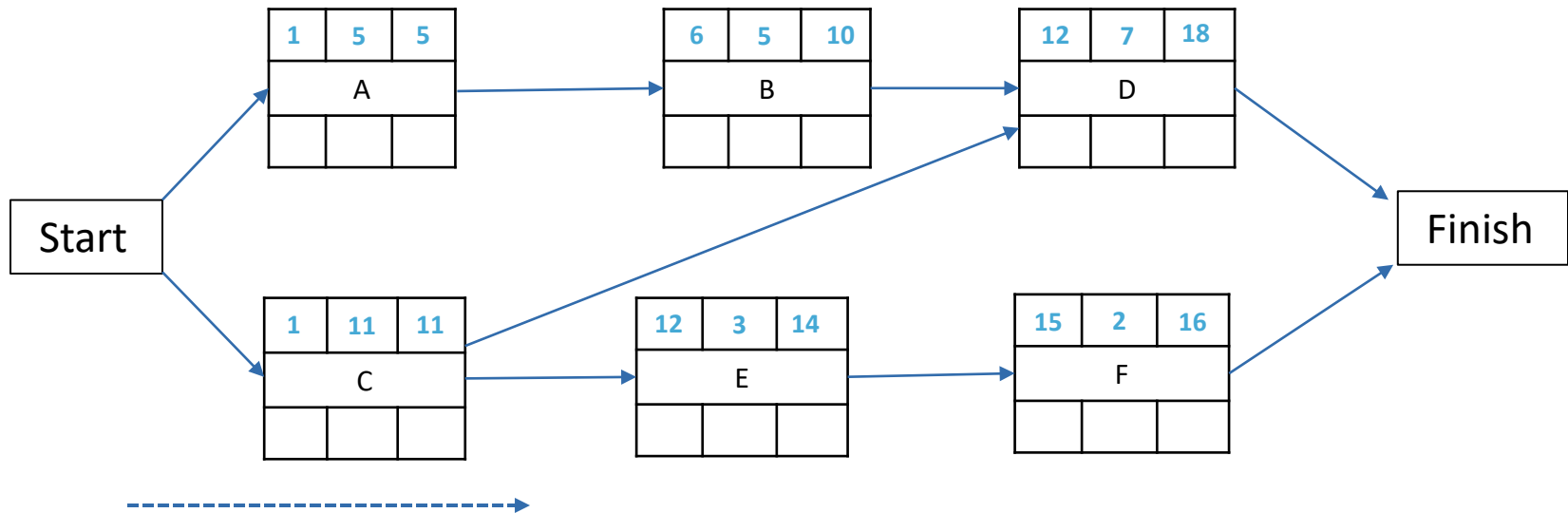
- Critical Path
 - The **longest path** in the network diagram
 - Longest path is the path with **the longest duration**
 - The total float on the path is **zero** (or negative)
- Early Start = Earliest date an activity can start given the logic and constraints.
- Early Finish = Earliest date an activity can finish given the logic and constraints.
- Late Start = Latest date an activity can start and the project remain on schedule.
- Late Finish = Latest date an activity can finish with the project remain on schedule.
- Activity Float = the amount of time an activity can be delayed without delaying the project finish date. Activity Float = Late Start – Early Start
- Methodology we are going to review is from the Project Management Institute (PMI).

Early Start	Duration	Early Finish
ACTIVITY NAME		
Late Start	Total Float	Late Finish



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Forward Pass



- Used to determine Early Start (ES) and Early Finish (EF)
- Rules:
 - First Activity Starts on DAY 1
 - $\rightarrow = + 1$ day
 - $EF = ES + \text{Duration} - 1$ day
 - When paths converge, use the greater number

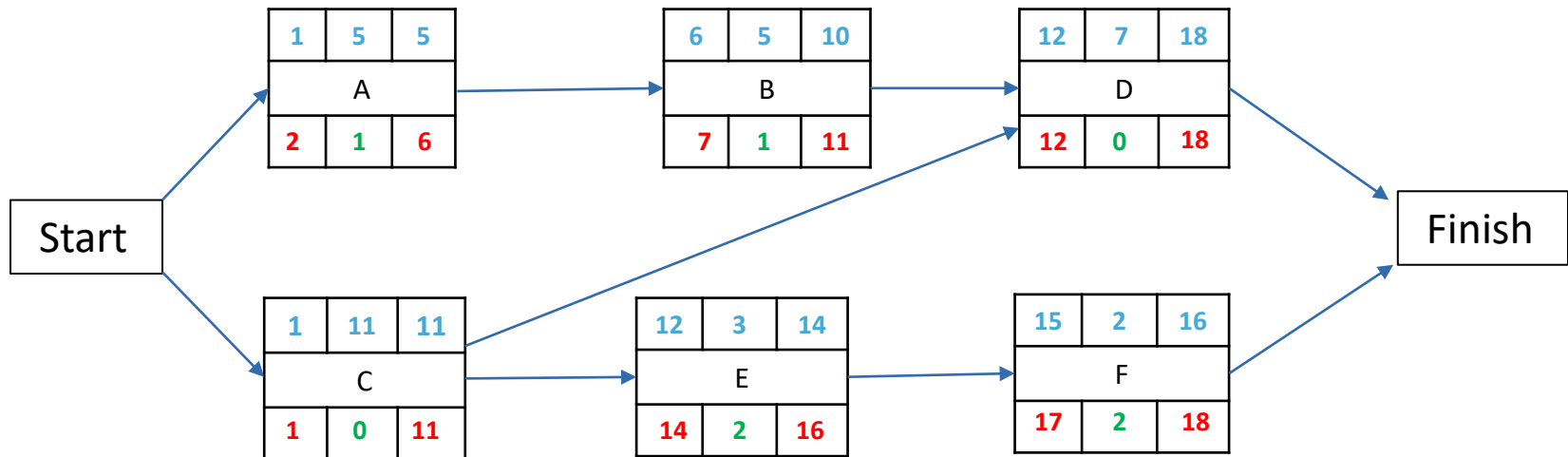
Early Start	Duration	Early Finish
ACTIVITY NAME		
Late Start	Total Float	Late Finish

LEGEND



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Backward Pass



- Used to determine Late Start (LS) and Late Finish (LF)
- Rules:
 - Start with the duration of critical path
 - $\rightarrow = - 1$ day
 - $LS = LF - Duration + 1$ day
 - When paths converge, use smaller LF number
 - Activity Float = $LS - ES$

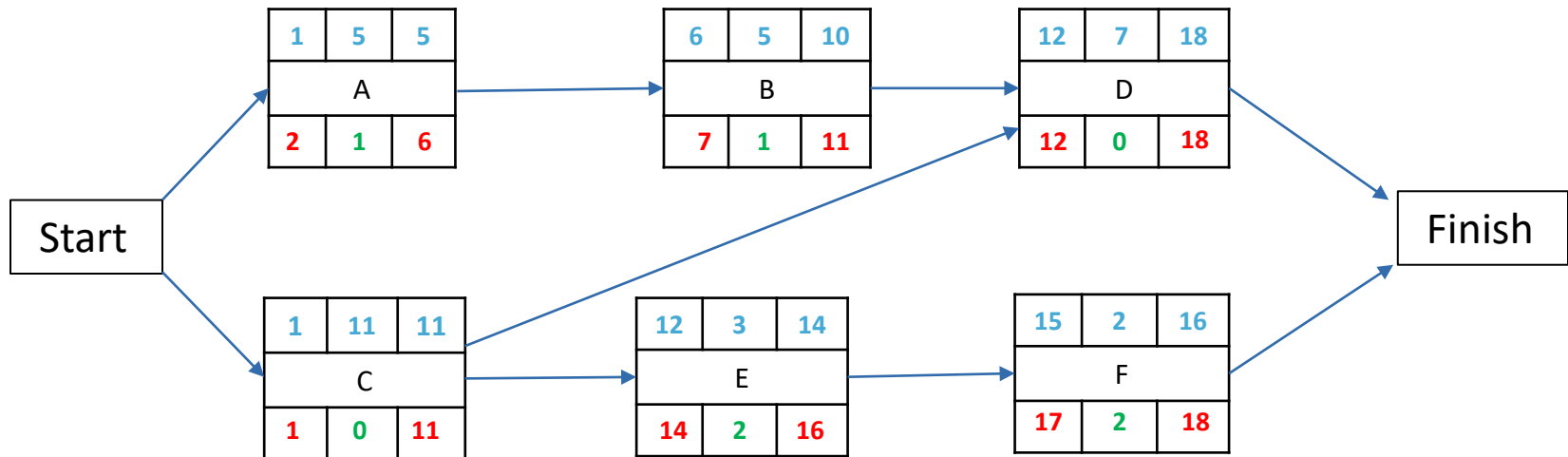
Early Start	Duration	Early Finish
ACTIVITY NAME		
Late Start	Total Float	Late Finish

LEGEND



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Critical Path Method



- Critical Path - the longest path on the project
- Activity Float – the amount of time an activity can be delayed without delaying the project finish date
- Float in the real world – Positive, Zero, or Negative

Early Start	Duration	Early Finish
ACTIVITY NAME		
Late Start	Total Float	Late Finish

LEGEND



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Scheduling Basics

- FAR 52.236-15 – Schedules for Construction Contracts, requires construction progress schedules for all construction projects
- The type of schedule must match the capability of the contractor and the project complexity
- The schedule must fit the contract duration and contract amount
- The schedule must be followed to achieve the desired goals and adjusted to reflect reality
- The schedule is controlled and belongs to the **Contractor**
- Provides the Government a tool to measure actual progress to planned progress
- The schedule acts as the basis for analyzing delays
- Case Law supports that the approved schedule is part of the written record



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 013205, Project Scheduling

- The Contractor is required to provide a Project Execution Schedule (PES).
 - “The PES is the working schedule and the key legal document representing the plan for executing all work.”
 - “The means and methods implied in the PES for accomplishing the contract work are the sole responsibility of the Contractor.”
- Purposes of the PES (Paragraph 1.04):
 - Complete information and reference plan to execute the project
 - ONLY plan of execution that is developed and updated throughout the project
 - Provide short-term look-ahead plans of execution
 - Record and report actual performance progress
 - Forecast final project completion
 - Evaluate time impact for unforeseen conditions, unexpected events, contract modifications, performance delays, etc...
 - Impartial tool to evaluate Requests for Equitable Adjustment (REAs)
 - Basis for evaluating work completed and the preparation of progress payments
 - Part of the As-Built Documents of the Contract
- Construction Management Guidebook includes guidance to the Project Director



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 013205, Project Scheduling

- Submittals (Paragraph 1.05)
 - Initial Project Execution Schedules
 - Required within 30 days following Contract Award
 - Prerequisite to the first application for progress payment
 - Baseline Project Execution Schedule
 - Required Before Limited Notice to Proceed (D-B) or Notice to Proceed (D-B-B)
 - Government acceptance for issuing Final Notice to Proceed
 - Project Execution Schedule Updates
 - Monthly update submissions are required with the completion of the first monthly period.
 - Data date for the update consistent with progress payment closing date
 - Certified by the Contractor's Project Manager and Project Controls Engineer



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 013205, Project Scheduling

- Government Review Process (Paragraph 1.06)
 - Required to review all submitted schedules and supporting documentation for contract compliance within 15 days.
 - Review the updated PES to verify accuracy of the on-site work progress
 - Activities started, completed, and on-going with percentages complete
 - COR may request the Contractor to participate in any meeting necessary to reach mutual agreement on any submitted schedule.
 - Contractor has 15 days to resubmit any submission returned by the Government



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 013205, Project Scheduling Project Controls Engineer (Paragraph 1.07)

- Assigned by the Contractor from NTP to Final Acceptance
- Shall be located at the project site from Mobilization to Substantial Completion
- Responsible for:
 - Preparation of the required schedules and supporting documents
 - Project coordination throughout the construction period
 - Prompt responses about the status of the project
 - Coordinating with key staff to develop and implement the PES
- Have experience as a construction scheduler on at least two projects with comparable scope and a value of no less than half the current project
- Final approval is required by the Government
- Contractor is not permitted to replace without approval of the COR



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 013205, Project Scheduling Baseline Schedule Development (Paragraph 3.02(B))

- Must include all tasks and milestones representing the entire scope of work
- Must be fully cost loaded to the full contract amount
- Days are the unit basis for development
- Original duration of construction activities must not exceed 14 days
- Must include Milestones listed in Paragraph 3.02(E)
- SS, FF, and SF dependencies must be avoided
- Float available in the schedule is not considered for the exclusive use of the Government or the Contractor.
- The baseline schedule is the reference plan of execution and shall remain invariable throughout the duration of the project unless changes to the plan arise. Provisions to change the baseline will be discussed.





ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 013205, Project Scheduling **Project Execution Schedule Updates (Paragraph 3.02(C))**

- Performed monthly
- *The updating process is limited to the input of actual data.*
- Actual Data would include Start Dates, Finish Dates, Actual Durations, and Actual Percentages for activities not complete.
- Any addition or deletion is considered a change to the baseline. This is covered in Paragraph 3.04 – Revising the Baseline
- For Control purposes. Activity percentage of completion shall be identical to Cost percentage of completion.
- Any activity or sequence of activities added to the schedule as a result of alleged constructive changes made by the Government may be added to a copy of the current schedule



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

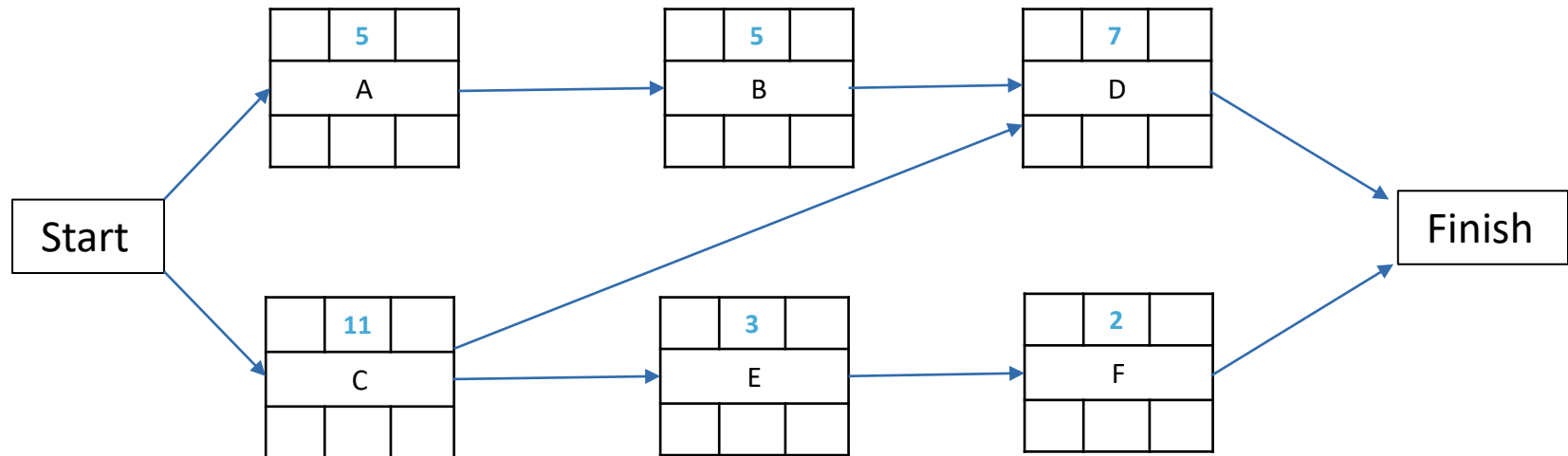
Specification Section 013205, Project Scheduling Narrative Report (Paragraph 3.02(D))

- All Project Execution Schedule submissions must include a Narrative Report
- The Narrative Report shall include:
 - Description of activities along the 2 most critical paths where the total float is less than or equal to 20 workdays
 - Description of current and anticipated problem areas or delaying factors and their impact
 - Explanation of corrective actions taken or required to be taken
 - Identify and explain why any activities that, based on their calculated late dates, should have either started or finished during the update period but did not.
 - Describe any out-of-sequence work activities that have occurred during the reporting period, the reasons, and the effect of this out of sequence work on the remaining unfinished work.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Out-of-Sequence Work Activities



- *Out-of-sequence work is when any activity STARTS before one or more of its predecessors FINISHES.*
- *Example:*
 - *Activity F must start after Activity E finishes (Finish-to-Start)*
 - *Out of Sequence – Activity F starts BEFORE Activity E finishes*



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 013205, Project Scheduling Revising the Baseline (Paragraph 3.04)

- “The Baseline Project Execution Schedule (BPES) is the Plan of Execution and shall be kept unaltered at all times under normal conditions.”
- In the event that changes are required due to change of conditions such as contract modifications, or other unforeseen situations, the Contractor shall request revising the Baseline.
- The Contractor shall propose the revision to the Project Director/COR for review and acceptance.
- This proposal shall include a narrative of reasons and a list of all the changes with descriptions and justifications.
- Once the changes are accepted by the Project Director/COR, the Revised BPES will be applicable to the subsequent PES Updates.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

MODULE 5

Changed Conditions



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Learning Objective

- Given a changed condition, we will learn the appropriate remedy for the situation in accordance with applicable rules, regulations, and policy.
- There will be a changed condition requiring contract modifications on construction projects – I GUARANTEE IT!
- Contract modifications impose significant risk to the project budget and project schedule (two legs of the “Iron Triangle”).





ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Analysis of Principal FAR Clauses

- Government must determine entitlement and remedies available when a changed condition arises.
- We do this through the analysis of the rights and responsibilities expressed in the change-related construction clauses prescribed in the FAR.
- Typical FAR clauses used in this analysis:
 - Changes
 - Differing Site Conditions
 - Suspension of Work
 - Variation in Estimated Quantities
 - Site Investigation and Conditions Affecting the Work
 - Value Engineering - Construction
 - Default (Fixed - Price Construction)



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

FAR 52.243-4 – Changes

- The most important and most used clause for changed conditions in Government contracts
- Contracting office authorized to direct changes to the work, unilaterally if necessary, within the general scope of the contract
- There are two main reasons for inclusion of the Changes clause:
 - Ensure the Government has flexibility during the administration of the contract
 - Ensure the Contractor is compensated when the Government exercises this flexibility
- What type of compensation may be due to the contractor?
 - Time and money, or both



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Out-of-Scope Changes

- Changes outside of the scope are referred to as 'cardinal changes'
- Cardinal change doctrine prevents the Government from circumventing the competitive procurement process
- The standard for determining if the modification is within scope or out-of-scope is determined by examining:
 - Magnitude of the change in relation to the overall effort
 - Whether the purpose of the contract has been altered
 - Whether the field of competition would be materially changed
- Courts look at three things regarding materiality:
 - The type of work being performed
 - The time of performance
 - The cost of performing the work



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

FAR 52.236-2 – Differing Site Conditions

- Requires the Contractor to notify the Government of any differing site conditions – promptly and before conditions are disturbed
- The purpose is to shift the risk to the Government and eliminate bid contingencies during the solicitation process
- Two categories:
 - TYPE I – exists when the conditions differ from what is shown in the contract.
 - TYPE II – exists when the unknown physical conditions at the site differ from what would normally be encountered
- Caution using **exculpatory language** in Government contracts



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

FAR 52.242-14 – Suspension of Work

- Allows the Contracting Officer to suspend work for the convenience of the Government.
- Delays for short periods of time where dollars-per-day costs are small are likely to be deemed reasonable – and not compensable.
- Gives the Government time to make decisions, investigate issues, inspect quality, revise designs, and perform other contract administration issues.
- No allowances for profit or additional time under this clause.
- Contractor must show increased costs were caused by the suspension.
- If an equitable adjustment is considered, the delay must be for suspensions of an unreasonable period of time. Recovery must be for actual increased costs.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

FAR 52.211-18 – Variation in Estimated Quantities

- Allows for adjustment in unit-priced items when variation in the quantity estimated in the contract exceeds 15%.
- Relieves the Contractor of risk associated with inaccurate estimated quantities provided by the Government.
- Prevents the Contractor from adding large contingencies to the price when estimating the job.
- Neither party may demand repricing for work falling within 15% of the original estimate.
- Contractor may also receive a time extension in addition to cost.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

FAR 52.236-3 – Site Investigation and Conditions Affecting the Work

- Contractor must acknowledge they are aware of the location and the nature of the work to be performed.
- Acknowledgement by the contractor they have ascertained:
 - conditions bearing on transportation, disposal, handling, and storage of materials;
 - the availability of labor, water, electric power, and roads;
 - the conformation and conditions at the site;
 - the character of equipment and facilities needed
- This clause is designed to ensure that the contractor is fully aware of the work to be accomplished and the conditions.
- Contractor is expected to make a reasonable site visit



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

FAR 52.248-3 – Value Engineering – Construction

- Encourages the Contractor to voluntarily share cost savings expertise with the Government and submit Value Engineering Change Proposals (VECP).
- Provides for two types of savings:
 - Instant Savings – This represents the contract cost reduction realized by adopting the contractor's proposal.
 - Collateral Savings – This represents the Government's reduced cost of future operations in a typical year as a result of adopting the proposed change.
- Contractor receives share of instant (55%) and collateral (20%) savings.
- Does not apply to incentive-type construction contracts.
- Reduces cost without impairing essential functions or characteristics



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

FAR 52.249-10 – Default (Fixed-Price Construction)

- Allows the Government to terminate a Contractor who refuses or fails to prosecute the work
- Government can terminate for actual or implied breach
- Allows Contractor to receive time extensions in the event of an excusable delay beyond the fault of the contractor
- Contractor must provide written notification regarding the causes of delay within 10-days from the beginning of the delay
- Compensation is time only – not cost adjustments



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Delinquency Notices

(FAR 49.402-3 and 49.607)

- FAR 49.402-3 (e)(1) If termination for default appears appropriate, the contracting officer should, if practicable, notify the contractor in writing of the possibility of the termination.
- FAR 49.607 provides the formats of the delinquency notices that may be used to satisfy the notification requirements in FAR 49.402-3.
- Cure Notice - If a contract is to be terminated for default before the delivery date, a "Cure Notice" is required by the Default clause. An amount of time equal to or greater than the period of "cure" must remain in the contract delivery schedule.
- Show Cause - If the time remaining in the contract delivery schedule is not sufficient to permit a realistic "cure" period of 10 days or more, the "Show Cause Notice" should be used.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Termination for Default

(FAR 49.402-3 and FAR 52.249-10)

- Contractor refuses or fails to prosecute the work diligently to ensure its completion within the time specified in the contract or fails to complete the within this time.
- The construction specific Default clause does NOT allow for termination for default (T4D) for failure to comply with other contract provisions.
- Repudiation – the Contractor positively states it cannot or will not perform.
- Termination for Default is the ‘nuclear option’ in construction contracting. Termination for Default can be converted to Termination for Convenience. T4D converted to T4C.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Termination for Default

(Procedures Unique to Construction)

- There are some unique situations that must be considered by the contracting officer.
 - Site Cleanup (FAR 49.105-4)
 - Final Payment (FAR 49.112-2(c))
 - Surety Takeover Agreement (FAR 49.404)
 - The contracting officer should permit surety offers to complete the contract
 - Completion by another contractor (FAR 49.405)
 - The contracting officer may arrange for completion of the work by awarding a new contract based on the same plans and specifications



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Constructive Changes

- Unauthorized change ordered by the Government affecting scope of work, cost, or time.
- Categories of Constructive Changes:
 - Differing Interpretation of the Contract
 - Failure to Cooperate
 - Over-Inspection
 - Failure to Disclose
 - Acceleration
 - Government Furnished Property
- Can be VERY costly



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Elements of a Constructive Change

- **Change Element** – Did performance extend beyond the minimum standards of the contract?
- **Order Element** – Did the Government by words or deeds require performance beyond the requirement?



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Differing Interpretation of the Contract

- The most common type
- The Government and Contractor differ on what is required
- Order Element – The Government directs the Contractor to perform in accordance with the Government interpretation.
- Case Law supports that the contractor may prevail if their interpretation is reasonable.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Failure to Cooperate

- Contractor asserts that the Government has breached the implied duty to cooperate.
- Important questions:
 - Was the Government cooperation essential to successful performance?
 - Did the Government's failure to cooperate cost the contractor money and/or time?
- The project is doomed if the Government and Contractor reach this point



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Other Constructive Changes

- Over Inspection
 - Government demands a higher standard
- Failure to disclose superior knowledge
 - Proprietary specifications
- Acceleration
 - Government takes no action on a known excusable delay
- Government Furnished Property
 - Delivered late or fails to meet specifications



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Types of Delay

- **Contractor** – Due solely to the fault/negligence of the contractor. This could also be associated with the subcontractor performance.
 - FAR 52.236-15 Schedules for Construction Contracts
 - The contractor is not entitled to **time or money**
- **Government** – Delays could be linked directly to the Government.
 - FAR 52.243-4 Changes
 - FAR 52.242-14 Suspension of Work
 - FAR 52.249-10 Default (Fixed-Price Construction)
 - The contractor is entitled to **time and/or money**
- **Excusable** – Beyond the control of the contractor
 - FAR 52.249-10 Default (Fixed-Price Construction)
 - (b)(1) Unforeseeable Causes
 - The contractor is entitled to **only time**
- **Concurrent** – Combination of the other delays that occur at the same time.
 - The contractor is entitled to **only time - no money**



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Acceleration

- Definition: Increasing the rate of work above that originally planned
- Making an activity in a schedule go faster than originally planned
- Does not necessarily result in an earlier completion date for the project.
- There are four general types of acceleration:
 - Directed
 - Constructive
 - Voluntary
 - Expediting



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Directed Acceleration

- Can only be ordered by the Government
- It can be ordered under:
 - Changes Clause (FAR 52.243-4)
 - Bilateral or unilateral
 - Government can direct the contractor to add shifts, work overtime, increase crew size, etc...
 - Generally invoked due to an urgent or operational need
 - Schedules for Construction Contracts Clause (FAR 52.235-15)
 - Most common type of directed acceleration
 - Utilize Paragraph (b) of the clause to direct acceleration
 - Government does not direct the method of acceleration
 - The Contracting Officer should inform the contractor in writing
 - The Contracting Officer should remove the order when the contractor is caught up.
 - Inherent risk directing acceleration using this clause



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Acceleration Types

- Constructive Acceleration
 - Government directs the acceleration
 - Contractor disputes the delay is purely contractor delay
 - Acceleration order may be construed as a constructive change
 - Government would be responsible for additional costs
- Voluntary Acceleration
 - Choice made by the contractor for their benefit
 - Not Government directed
 - Not compensable
- Expediting
 - Advancing the contract completion date of a contract
 - Project involves Military Construction Appropriations Act
 - Requires agency head approval if additional costs are involved



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Specification Section 013205, Project Scheduling Plan of Recovery or Plan of Mitigation (Paragraph 3.05)

- The Project Director/COR can request the Contractor to submit a Plan of Recovery
- This is a form of Directed Acceleration.
- The Plan of Recovery consists of a detailed description of actions to be taken to achieve the targets of the PES. The Contractor then shall submit a narrative description of the Plan.
- If Revision of the Baseline is required, the Contractor shall proceed in accordance with the provisions for Revising the Baseline.
- The Government needs to proceed with caution!!
- Directed Acceleration can be converted to Constructive Acceleration.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Construction Schedule, Time, and Delay Analysis

- One of the most vital tasks performed by the Government is documenting the progress of the project.
- The file should contain the following documents:
 - Contractor's Daily Quality Control Report
 - Government's Daily Log
 - Meeting minutes (Weekly Construction Coordination Meeting)
 - Contractor's Monthly Project Execution Schedule and Narrative
 - Progress photos
- Government must perform a technical analysis to determine to justify additional performance time
- Contract Specification Section 013205, Project Scheduling, Paragraph 3.06 outlines the requirements for contractor time impact analysis



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

MODULE 6

Contract Progress Payments



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Prompt Payment Act

- Originally passed in 1982 and amended in 1988
- Requires payments on construction contracts to be made timely (14 days)
- Interest penalty out of its existing appropriation for late payments

FAR PART 32 – Contract Financing

- **FAR 32.111 Contract clauses for non-commercial purchases**
 - (a) The contracting officer shall insert the following clauses, appropriately modified with respect to payment due dates, in accordance with agency regulations-
 - (5) The clause at **52.232-5, Payments Under Fixed-Price Construction Contracts**, in solicitations and contracts for construction when a fixed-price contract is contemplated
- **Subpart 32.5 – Progress Payments Based on Cost**
 - FAR 32.500(b) Contracts for construction.....provide for progress payments based on a percentage or stage of completion.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Payments Under Fixed-Price Construction Contracts (FAR 52.232-5)

(a) *Payment of price.* The Government shall pay the Contractor the contract price as provided in this contract.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Page 1d

Line Item Summary		Contract Number: SAQMMMA10C0255	Order Number:	Title:	Total Funding: \$416,029,000.00	Date of Award: 09/29/2010
Line Item No.	Description	Quantity	Unit	Unit Price	Total Cost	
001	Design-Build Award for the Kabul FY10 Chancery Addition and SDA Housing II project. Below are the CLINs that should be awarded based on the total project amount of \$420M. CLIN 0001 - NOB Addition and SDA Housing: \$415,500,000 Doc Ref No: 10300HAY25 Taxes included: Delivery Date 09/30/2010 FOB: Destination Funding Information: 1. Accounting Ref: 10300HAY25 \$412,254,000.00	1.00	EA	\$412,254,000.00	\$412,254,000.00	
002	Doc Ref No: Taxes included: Delivery Date FOB: Destination Funding Information:	0.00	EA	\$0.00	\$0.00	
003	Design-Build Award for the Kabul FY10 Chancery Addition and SDA Housing II project. Below are the CLINs that should be awarded based on the total project amount of \$420M. CLIN 0001 - NOB Addition and SDA Housing: \$415,500,000 Doc Ref No: 10300HAY25 Taxes included: Delivery Date 09/30/2010 FOB: Destination Funding Information: 1. Accounting Ref: 10300HAY25 \$3,461,000.00	1.00	EA	\$3,461,000.00	\$3,461,000.00	
004	Design-Build Award for the Kabul FY10 CAA Chancery Addition and SDA Housing II Project. Below are CLINs that should be awarded based on the total project amount of \$420M. CLIN 0006 - Landscape Nursery: \$500,000 Doc Ref No: 10300HAY25 Taxes included: Delivery Date 09/30/2010 FOB: Destination Funding Information: 1. Accounting Ref: 10300HAY25 \$314,000.00	1.00	EA	\$314,000.00	\$314,000.00	
Grand Total:					\$416,029,000.00	

UNCLASSIFIED



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Payments Under Fixed-Price Construction Contracts (FAR 52.232-5)

(b) *Progress payments.* The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

- **“...on estimates of work accomplished...”**
 - The PES is the basis for evaluating the work completed and preparing progress payments
 - The Baseline PES must be fully cost loaded
- **“...meets the standards of quality...”**
 - Government does not pay for deficient work
 - Construction Quality Management provide the tools



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Payments Under Fixed-Price Construction Contracts (FAR 52.232-5)

- (b) (1) The Contractor's request for progress payments shall include the following substantiation:
- (i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.
 - (ii) A listing of the amount included for work performed by each subcontractor under the contract.
 - (iii) A listing of the total amount of each subcontract under the contract.
 - (iv) A listing of the amounts previously paid to each such subcontractor under the contract.
 - (v) Additional supporting data in a form and detail required by the Contracting Officer.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Payments Under Fixed-Price Construction Contracts (FAR 52.232-5)

(b)(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration.

Material delivered to the Contractor at locations other than the site also may be taken into consideration if-

- (i) Consideration is specifically authorized by this contract, and
 - (ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.
- **Specification Section 013205, Project Scheduling**
 - Paragraph 3.02(G)(4) provides guidance for assigning cost values to materials stored on-site or off-site.
 - Materials delivered to site but not installed (prep work and off-site)
 - YES – Structural steel, equipment, large pipe, pre-cast concrete....
 - NO – Consumable materials (nails, fasteners, conduit, gypsum board...



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Payments Under Fixed-Price Construction Contracts (FAR 52.232-5)

(c) *Contractor certification.* Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that-

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of Chapter 39 of Title 31, United States Code;

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Liquidated Damages

- Estimate of the financial damage the Government will incur if the contractor fails to complete the work on-time
- Contract law prohibits Contracting Officers from including penalties in Government contracts
- The FAR authorizes the use of liquidated damages in construction contracts to minimize Government expenses in the event of a non-excusable delay (FAR 11.5 – Liquidated Damages)
- Liquidated damages are calculated and expressed as an amount assessed for each day of delay in the project
- Liquidated damages must be an actual monetary value and not a percentage of the construction contract price
- If included in the contract, Liquidated Damages – Construction in FAR 52.211-15



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Payments Under Fixed-Price Construction Contracts (FAR 52.232-5)

(e) *Retainage*. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, *if satisfactory progress has not been made*, the Contracting Officer *may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved*. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the *Contracting Officer considers adequate for protection of the Government* and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Payments under Fixed-Price Construction Contracts (FAR 52.232-5)

(g) *Reimbursement for bond premiums.* In making these progress payments, the Government shall, upon request, **reimburse the Contractor for the amount of premiums paid for performance and payment bonds** (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Payments under Fixed-Price Construction Contracts (FAR 52.232-5)

(h) *Final payment.* The Government shall pay the amount due the Contractor under this contract after-

- (1) Completion and acceptance of all work;
- (2) Presentation of a properly executed voucher; and

(3) **Presentation of release of all claims against the Government arising by virtue of this contract**, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 ([31 U.S.C.3727](#) and [41 U.S.C.6305](#)).



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

Prompt Payment for Construction Contracts (FAR 52.232-27)

- Due date for progress payments – 14 calendar days after receiving a proper invoice.
- Section (a)(2) outlines the details for the invoice.
 - Invoice MUST contain the certification in FAR 52.232-5(c)
 - Invoice must include 'substantiation' of the amounts requested.
- Government must reject the invoice within 7 days if it does not comply.
- Government must pay interest penalties automatically (without request from the Contractor) if payments are not made by the due date.
- Contractor is required to make payment to subcontractors no later than 7 days from receipt of payment. Otherwise, interest to subcontractors.
- Subcontractor clause for flowdown is required
- Permits the contractor (or subcontractors) from holding retainage or withholdings from lower tier subcontractors.



ADVANCED CONSTRUCTION CONTRACT ADMINISTRATION OVERVIEW

THANK YOU!!!